

German laws and policies as annex

Now we can look at the German national level and in particular at your questions at this level. To answer these questions we will quote from a document prepared for the EU. Questions:

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Policy Department C

Citizens' rights and Constitutional Affairs

THE POLICY ON GENDER EQUALITY IN GERMANY

IN-DEPTH ANALYSIS FOR THE FEMM COMMITTEE

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“EXECUTIVE SUMMARY

Compared to other EU member states, Germany's performance in achieving gender equality is mediocre. The European Gender Equality Index ranks Germany lower than the EU average. Only in the areas of work, money and time Germany has achieved better results than the EU average. In recent years, efforts have been made particularly in employment. The federal government has focused on family policies and little efforts have been made in promoting equality policies. In addition, family policy was not consistently equality-oriented and had a re-traditionalising effect. Gender mainstreaming was implemented at federal level, but not effectively pursued. At Länder level, progress in equality depended on the political will of the 16 Länder governments.

2.4. ERADICATION OF GENDER-BASED VIOLENCE

KEY FINDINGS

- **Combating violence against women is regarded as a high priority for women's and civil society's organisations and for the Federal Government.**
- **The Protection Against Violence Act of January 2002 constitutes a paradigm shift regarding the legal protection of women. It proclaims the principle that "the one who does the hitting has to go".**
- **The Federal Government's two action plans to combat domestic violence against women have established a comprehensive concept of how to combat violence in a more efficient way. The second action plan highlighted the fact, that the majority of women concerned had experienced violence in their own home. It also addressed migrant women.**
- **The criminal offence § 177 of the Criminal Code⁶² concerning sexual assault and rape will be reformed.**
- **The General Equal Treatment Act AGG which came into effect in 2006 provides legal protection against all forms of sexual harassment.**
- **Stalking became a new legal offence on 31 March 2006, aiming at quick interventions by the police and at protecting victims.**
- **Implementing the EU Directive 2011/36/EU, the Federal Government has adopted a draft law on 28 January 2015 aiming at better protecting women and children from trafficking in human beings. However, only a minimum of requirements have been included.**
- **The Prostitution Act of 2002 regards independent prostitution as a legal professional activity. The debate in politics and society is polarised because the Prostitution Act is regarded as responsible**

for the increase of trafficking of women for sexual exploitation in Germany. The federal government is willing to reform the act.

2.4.5. Trafficking in human beings for sexual exploitation

Trafficking in human beings for sexual exploitation is a severe violation of Human Rights. According to police reports, the number of women trafficked into Germany for sexual exploitation increased by 70 percent between 2005 and 2010.⁷⁸ The European Commission adopted the EU Strategy towards the eradication of trafficking in human beings 2012-2016. One of the main pillars of the Strategy is the EU Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims. The Directive had to be transposed in national law by 6 April 2013. Trafficking in human beings for sexual exploitation is also covered in § 232 Criminal Code.⁷⁹ The governmental coalition of CDU/CSU and FDP presented a draft law in 2013 aiming at implementing the EU Directive.⁸⁰ The draft law was criticised by the parliamentary opposition of SPD, Bündnis 90/Die Grünen and Die Linke who estimated that the efficient protection of victims had not been considered, notably in relation to the possibility to get permanent residence permits.⁸¹ Due to such controversies, the draft law was not adopted. The current Federal Government managed to adopt a draft law on 28 January 2015 aiming at better protecting women and children from trafficking. However, most recommendations which the experts have brought forward have not been considered.⁸² The Federal Minister for Justice pointed out that for a start only compulsory penal relevant issues will be implemented in order to react rapidly, since the deadline for implementing the EU Directive in Trafficking ended already in 2013.⁸³

3. CONCLUDING REMARKS

Since the turn of the century, some progress in gender equality has been achieved in Germany. The legal framework has been improved by equality laws covering both the federal level and the 16 Länder. At local level, cities have enhanced their structures aiming at promoting gender equality. The General Equal Treatment Act covers discrimination on the ground of gender, race or ethnic origin, religion or belief, age, disability and sexual orientation. Institutional mechanisms for promoting, implementing and monitoring gender equality have been established. Though, their results depend both on the political will of the governments at different levels of the German federalism and on pressure from an active civil society. Equality policies at federal level have fallen short of women's expectations. Women's organisations are advocating and actively campaigning for more progress. Societal change, in particular women's integration in the labour market, women's self-determination and financial independence, has had an impact on the life styles of women and men. A more diverse society has generated more diverse forms of families with new needs. However, for a long time, equality policies have not been able to achieve consistent improvements. While female employment rates have increased, reconciliation between private and professional life and the persistent gender pay gap have not been adequately addressed to date. European legislation has acted as the main driver for legal improvements in equal treatment and anti-discrimination. EU equality policies have been developed over the past thirty years, but with the start of the financial and economic crisis in 2009 an adverse trend can be observed. The Federal Minister in charge for Women's Affairs is currently focusing on the achievement of equality in Germany, but a stronger support from and a commitment of the whole political arena, including at European level, will be needed for further progress."

Maisha's final comments

Since Germany like many other European countries is affected by populist parties with an anti-immigrant and anti-immigration agenda, "gender-responsive immigration policies" are not part of the National political agenda. Since Gender equality is not an issue that is kept constantly on the national agenda, it is not surprising that gender-responsive immigration policies are not deemed important. Such policies are anathema in the current political climate and it is only the EU that drives policies at the moment as all countries seem to favour restrictive immigration policies. At the moment the key issues are restricting the numbers of immigrants and outsourcing the handling of European migrants. These dominant issues leave little or no room for gender-responsive immigration policies and discussions on women returnees.

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